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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/562,895

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Wilhelmus Robert Koppers

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EXAMINER

CHOW, LIXI

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,895	<b>Applicant(s)</b> KOPPERS ET AL.	
	<b>Examiner</b> LIXI CHOW	<b>Art Unit</b> 2627	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 December 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuroda (US 6,370,091).

Regarding claim 1:

Kuroda discloses method A method of recording information on a recordable multi-layer record carrier, said record carrier having a plurality of information layers including at least a first information layer and a second information layer for storing information (see Figs. 1 and 2), the method comprising acts of:

receiving data content to be recorded on the recordable multi-layer record carrier (see Fig. 1, element 10);

recording the data content on the recordable multi-layer record carrier such that the data content is substantially evenly distributed between each of the plurality of information layers (see Figs. 3A-3C) and recorded in compliance with a ROM (read only memory) record carrier standard (see Fig. 1, element 20 and col. 2, lines 17-24; recording medium 20 is a DVD-ROM, therefore, the information recorded thereon is in compliance with a ROM record carrier standard), wherein portions of the data content are recorded in data areas of the first and second information layers such that the data areas are superjacent (see Figs. 3B, 3C and 5).

Regarding claim 4:

Kuroda discloses a recordable multi-layer record carrier, said record carrier comprising:  
a plurality of information layers including at least a first information layer and a second information layer for storing data content recorded on the recordable multi-layer record carrier such that the data content is substantially evenly distributed between each of the plurality of information layers (see Figs. 3A-3C) and recorded in compliance with a ROM (read only memory) record carrier standard (see Fig. 1, element 20 and col. 2, lines 17-24; recording medium 20 is a DVD-ROM, therefore, the information recorded thereon is in compliance with a ROM record carrier standard),

wherein portions of the data content are recorded in data areas of the first and second information layers such that the data areas are of substantially equal size and superjacent (see Figs. 3B, 3C and 5).

Regarding claim 6:

Kuroda discloses the method of claim 1, where recording comprises of dividing the received data content into portions of substantially equal size, and recording the portions of the data content to the data areas of the plurality of information layers (see Figs. 3A-3C and col. 3, lines 41-65).

Regarding claim 7:

Kuroda discloses the method of claim 6, wherein dividing the data content into portions of substantially equal size comprises an act of dividing the data content based on recording time (since each of the data block requires certain amount of time to record onto the disc, and the

amount of data are even divided, then the act of dividing the data content based on recording time is inherently realized).

Regarding claim 8:

Kuroda discloses the method of claim 6, wherein dividing the data content into portions of substantially equal size comprises an act of dividing the data content based on a size of the data content to be recorded (Kuroda inherently divides the data content according to the size of the data content to be recorded).

Regarding claim 9:

Kuroda discloses the method of claim 1, wherein the data content is video data (see col. 2, lines 17-20).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda (US 6,370,091).

Regarding claim 5:

Kuroda discloses all the features in claim 1; however, Kuroda fails to mention whether the method further comprises an act of shifting middle zone areas of at least one of the information layers towards an inner radius of the disc. However, the act of shifting middle zone areas of at least one of the information layers towards the inner radius of the disc depends on

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how much data is to be recorded on the record carrier. It would have been obvious to one having ordinary skill in the art at the time the invention was made to only record, for example, four data blocks instead of six data blocks to thereby shifting the middle zone area, since it has been held that mere changing the size of a content involves only routine skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Regarding claims 10 and 11:

Kuroda discloses the claimed invention except for the data content is audio data or audio/visual data. However, Kuroda discloses that a data content is a video/visual data. It would have been obvious to one having ordinary skill in the art at the time the invention was made to record data content of audio or audio/visual data since the examiner takes Official Notice of the equivalence of video/visual data and audio or audio/visual data for their use in the optical recording/reproducing art and the selection of any of these known equivalents to be recorded onto a record carrier would be within the level of ordinary skill in the art (please note that the equivalence of the video/visual data and audio or audio/visual data is now considered to be Applicant's admitted prior art, since Applicant did not challenge the Official Notice that was taken in the last Office Action).

5. Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuroda in view of Tateishi (EP 1204106A2).

Regarding claim 12:

Kuroda discloses a method of recording information on a recordable multi-layer optical disc having a plurality of information layers, the method comprising acts of:

receiving data content to be recorded on the recordable multi-layer optical disk (see Figs. 3A-3C); and

recording the data content in data areas of the plurality of information layers such that the data content is substantially evenly distributed between each of the plurality of information layers (see Figs. 3B-3C and Fig. 5) and recorded in compliance with a ROM (read only memory) record carrier standard (see Fig. 1, element 20 and col. 2, lines 17-24; recording medium 20 is a DVD-ROM, therefore, the information recorded thereon is in compliance with a ROM record carrier standard),

wherein data area of the plurality of information layers are (i) substantially equal size and (ii) substantially filled with a portion of the recorded data content (see Fig. 5; each of the recording layer includes three data blocks).

Kuroda discloses the claimed invention except that Kuroda fails to mention whether the method further comprises an act of shifting middle zone areas of the plurality of information layers towards an inner radius of the disc. However, the act of shifting middle zone areas of the plurality of information layers towards the inner radius of the disc depends on how much data is to be recorded on the record carrier. It would have been obvious to one having ordinary skill in the art at the time the invention was made to only record, for example, four data blocks instead of six data blocks to thereby shifting the middle zone area, since it has been held that mere changing the size of a content involves only routine skill in the art. In re Rose, 105 USPQ 237 (CCPA 1955).

Kuroda may not disclose that the data area of the plurality of information layers are spatially aligned; but Tateshi discloses a method of recording information on recordable multi-

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layer optical disc having a plurality of information layers, the method comprises recording data to the plurality of information layers, wherein a data area of the plurality of information layers are spatially aligned (see Fig. 5).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the method of Kuroda to record data onto a plurality of information layers such that the data area of the plurality of information layer are spatially aligned. One of ordinary skill in the art would have been motivated to do this because the data area of the plurality of information layers is efficiently utilized.

Regarding claims 13-17:

Claims 13-17 recite similar limitations as in claims 6-10; hence, they are rejected under the same reasons set forth in claims 6-10.

### ***Response to Arguments***

6. Applicant's arguments filed 12/12/08 have been fully considered but they are not persuasive.

Applicant argues that the dual layer DVD-ROM taught by Kuroda "is not a recordable multi-layer record carrier as recited in the pending claims". However, Examiner respectfully disagrees. It is clear that Kuroda teaches a multi-layer DVD-ROM that is in compliance with the ROM record carrier standard, because the DVD-ROM includes read only pits which have been recorded thereon (see Fig. 5 and col. 2, lines 17-24; the DVD-ROM includes 1<sup>st</sup> recording layer and a second recording layer, which information is recorded thereon). In addition, the layout of the recording blocks in each recording layer to prevent illegal copying of the information as



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taught by Kuroda does not imply that the DVD-ROM is not a recordable multi-layer record carrier.

Applicant also argues that "Tateishi does not disclose or suggest a method for recording data in compliance with a ROM record carrier standard". However, Examiner did not rely on Tateishi to teach such feature, so the argument is moot.

Therefore, Applicant's arguments are not convincing and the rejections are maintained.

Furthermore, Applicant stated that "Claims 1 and 4-18 are pending". But, in the amendment filed 12/12/08, claim 18 is not present. Accordingly, claim 18 is considered canceled for the purpose of this Office Action.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LIXI CHOW whose telephone number is (571)272-7571. The examiner can normally be reached on Mon-Fri, 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne Young can be reached on 571-272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lixi Chow/

Examiner, Art Unit 2627

/Wayne Young/

Supervisory Patent Examiner, Art Unit 2627